

Medical tools, devices and equipment used for diagnostic, rehabilitative and treatment purposes do not qualify for the reduced rate of tax for medical appliances. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

February 28, 2006

Dear Xxxxx:

This letter is in response to your letter dated February 16, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC requests issuance of written advice regarding the taxable status of our product, the medical devices listed at attachment 1.

ABC sells the products to hospitals, clinics and distributors. Each product is labeled with a symbol that indicates the product is for single use only and also with the following warning: Federal (U.S.A.) Law restricts this device to use by or on the order of a licensed physician.

The medical devices are used for the treatment of pathological fractures of the vertebral body due to osteoporosis using a ABCplasty procedure. ABCplasty is a minimally invasive procedure that addresses both the deformity and the pain by stabilizing the fracture and helping to correct the vertebral body deformity. The procedure entails drilling into one or more vertebral bodies so that our inflatable bone tamp can be inserted, then inflated, to create a void in the compressed bone of the vertebral body. The void is filled with Bone Cement. Please see the attachment 2, a copy from our website which explains ABCplasty.

Please advise if sales of the medical devices are taxable at the reduced rate under IL Admin. Code 86 § 130.310 (C)(2).

If you have any questions or need information, please contact me after 2/20/06.

**DEPARTMENT'S RESPONSE:**

All gross receipts from sales of tangible personal property in Illinois are subject to Retailers' Occupation Tax unless an exemption is specifically provided. Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1%. See 86 Ill. Adm. Code 130.310. Items subject to this lower tax rate include prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use.

Medical devices that are used for diagnostic or treatment purposes do not qualify for the lower tax rate. Generally, medical tools, devices and equipment used for diagnostic, rehabilitative and treatment purposes do not qualify for the reduced rate of tax for medical appliances as such items, while being used for treatment of patients, are not directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310(c).

From the limited information provided, it appears the devices referred to in your letter are used for treatment purposes and do not directly substitute for a malfunctioning part of the body.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

EEB:msk